

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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EVE SALES, CORP. and MARIE SHARP'S  
FINE FOODS, LTD.,

Plaintiffs,

24-cv-2757 (PKC)

-against-

ORDER

MARIE SHARP'S, USA, LLC,

Defendant.

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CASTEL, U.S.D.J.

The limited subject matter jurisdiction of a district court is best addressed at the outset of a case. It falls upon the Court to raise issues of subject matter jurisdiction sua sponte.

The Complaint claims subject matter jurisdiction exists based solely upon diversity of citizenship, 28 U.S.C. § 1332. (ECF 1, Complaint ¶ 7). “It is firmly established that diversity of citizenship should be distinctly and positively averred in the pleadings, or should appear with equal distinctness in other parts of the record.” Leveraged Leasing Admin. Corp. v. PacifiCorp Cap., Inc., 87 F.3d 44, 47 (2d Cir. 1996). “It is axiomatic that diversity jurisdiction is available only when all adverse parties to a litigation are completely diverse in their citizenships.” Washington Nat’l Ins. Co. v. OBEX Grp. LLC, 958 F.3d 126, 133 (2d Cir. 2020) (quotation marks omitted). Where a complaint premised upon diversity of citizenship names a limited liability company as a party, it must allege the citizenship of natural persons who are members of the limited liability company as well as the place of incorporation and principal place of business of any corporate entities that are members of the limited liability company.

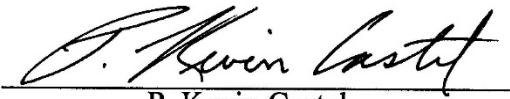
See Platinum-Montaur Life Sciences, LLC v. Navidea Biopharmaceuticals, Inc., 943 F.3d 613, 615 (2d Cir. 2019); Handelsman v. Bedford Village Associates Limited Partnership, 213 F.3d 48, 51-52 (2d Cir. 2000).

The Complaint alleges that the defendant, Marie Sharp's, USA, LLC, is a "North Carolina limited liability company with its principal address located at 1976 Runnymede Road, Winston Salem, North Carolina." (Complaint ¶ 6). The Complaint does not allege the citizenship of any member of the defendant limited liability company.

Within fourteen (14) days of this Order, plaintiffs may serve a single interrogatory upon defendant Marie Sharp's, USA, LLC as to the citizenship of all natural persons who are its members, and if any corporation is a member, the jurisdiction under whose laws it is incorporated and the principal place of business. The defendant shall serve its response to the interrogatory within fourteen (14) days.

Within forty-five (45) days of this Order, the plaintiffs shall amend their complaint to correct the jurisdictional deficiency by truthfully and accurately alleging the citizenship of the defendant limited liability company. If, by this date, the plaintiffs fail to allege complete diversity of citizenship, the action will be dismissed for lack of subject matter jurisdiction without further notice to any party.

SO ORDERED.

  
P. Kevin Castel  
United States District Judge

Dated: New York, New York  
April 15, 2024